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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/749,569

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EXAMINER

WOZNIAK, JAMES S

ART UNIT

PAPER NUMBER

2626

MAIL DATE

DELIVERY MODE

04/28/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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|--|--|--|--|
| <p align="center"><b>Advisory Action</b><br/><b>Before the Filing of an Appeal Brief</b></p> | <p><b>Application No.</b><br/>10/749,569</p> | <p><b>Applicant(s)</b><br/>SUNG ET AL.</p> |  |
|  | <p><b>Examiner</b><br/>JAMES S. WOZNIAK</p>  | <p><b>Art Unit</b><br/>2626</p>            |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 07 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/James S. Wozniak/  
Primary Examiner, Art Unit 2626

Continuation of 11. does NOT place the application in condition for allowance because: The prior position of record has been maintained. In response to the applicants' allegation that Gao (US 6,449,590) fails to teach a speech characteristic classification unit (Amendment, Pages 7-8), the examiner notes that Gao explicitly teaches a voiced/unvoiced classification unit that judges whether an input speech signal has a voiced or unvoiced characteristic (Col. 12, Lines 14-20; and Fig. 2, Element 279) (see also Prior OA, Page 7). In Col. 6, Lines 27-39, Gao further describes such classifications as being "characteristics" of a speech signal. Furthermore, Gao's classification unit utilizes a perceptually weighted speech signal having an open loop pitch value and linear prediction parameters (Col. 8, Line 63- Col. 9, Line 6; Col. 12, Lines 14-20; Col. 13, Lines 8-29; Fig. 2, Elements 219, 239, and 241). Thus, this argument has been fully considered, but is not convincing. In response to the applicants' argument that Gao allegedly fails to teach "an adaptive codebook retrieving unit that retrieves a pitch delay value around an open-circuit pitch value..." and the examiner has not describe how the citation is Gao addresses adaptive codebook search, the examiner notes that this argument is not convincing as the applicants have not argued how their claim language specifically differs from the teachings of Gao. Instead, the examiner notes that the Prior OA from 1/6/2009 clearly stated that at Col. 9, Lines 16-33, Col. 21, Lines 52-59, Col. 22, Lines 34-54, and Fig. 2, Element 257 describes a process/unit for such an adaptive codebook retrieval. For example, Col. 9, Lines 16-33 describes that a pitch lag (i.e., the claimed "pitch delay value" and noted as being a "delay" Col. 21, Lines 52-59 in Gao ) is computed by searching around an open-loop pitch lag (i.e., the claimed "around the open-circuit pitch value"), Col. 9, Lines 16-33 and Col. 21, Lines 52-59 describe that a pitch lag and pitch gain value are computed, Col. 22, Lines 34-54 specify that an adaptive codebook vector (i.e., the claimed "adaptive codebook contribution") is retired based on a determined "pitch lag", and lastly Col. 9, Lines 28-33 clearly describes that a difference between a perceptually weighted input speech signal and the codebook vector is computed to determine a target signal. Furthermore, the examiner notes that this claim limitation only calls for searching "around the open-circuit pitch value" (which is taught by Gao as is described above) and not that the search itself is an open-loop. Thus, this argument has been fully considered, but is not convincing. In response to the general allegation that Ozawa (US 5,487,128) fails to teach "the feature of claim 1 discussed above", the examiner notes that it is not explained why Ozawa fails to teach these features and secondly Ozawa is relied upon for the teaching of two cascaded fixed codebooks (see Prior OA, Pages 8-9). Thus, this argument has been fully considered, but is not convincing. In response to the applicants' arguments that Laflamme et al ("16 Kbps Wideband Speech Coding Technique Based on Algebraic CELP," 1991) teaches away from the applicants invention, the examiner notes that these arguments were previously addressed in the OA from 1/6/2009 (Pages 3-4). In regards to such arguments, see this previous response, the position of which is maintained here. With respect to claim 4, the applicants submit new arguments that it is "unclear whether Gao discloses the features recited in claim 4". In response, the examiner notes that this argument has been fully considered, but is not convincing because the applicants have not explained the difference between claim 4 and the teachings of Gao and in Col. 36, Line 45- Col. 35, Gao teaches that the gain values are similarly computed for all of the secondary fixed subcodebooks or would be from the same set of possible values (Fig. 2, Element 263). In this way, the secondary fixed subcodebook (Fig. 2, Element 261, "SUB-CB2...N") gains (Fig. 2, Element 263) would comprise the set of possible gain values for the collection of secondary subcodebooks (i.e., "gain values include all gain values of each of the second fixed codebooks"). The applicants' arguments against the teachings of Chhatwal et al (US 5,457,783) were previously addressed in the OA from 1/6/2009 (Page 5). In regards to such arguments, see this corresponding prior response. The applicants' arguments directed towards the art rejections of claims 5 and 10 (Amendment, Pages 10-11) were previously addressed in the Prior OA from 1/6/2009 (Pages 5-6). In regards to such arguments, see the corresponding prior response. Thus, for at least the preceding reasons, the prior position of record is maintained.